

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
)	
Request for Waiver and Review of)	
Decision of the)	
Universal Service Administrator by)	
)	
St. Joseph High School)	File No. SLD-170343 (FY 2000)
Frederiksted, St. Croix, Virgin Islands)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

To: Telecommunications Access Policy Division, Wireline Competition Bureau

**ST. JOSEPH HIGH SCHOOL
PETITION FOR RECONSIDERATION**

St. Joseph High School (“St. Joseph”), pursuant to Section 1.106 of the Federal Communications Commission’s (“FCC” or “Commission”) rules, hereby petitions for reconsideration of the Order, DA 12-241, released on February 22, 2012, in the above-captioned matter.¹ The Universal Service Administrative Company (“USAC”) has demanded that St. Joseph reimburse funds distributed under the E-rate program to service providers *more than a decade ago*. This demand, if not overruled by the Commission, will have a detrimental financial impact on St. Joseph, including the very real possibility that St. Joseph will be forced to close. St. Joseph respectfully requests that the Commission reverse USAC’s decision and direct USAC to discontinue recovery actions against St. Joseph for the reasons set forth below.

¹ *In the Matter of Requests for Waiver and Review of the Decision of the Universal Service Administrator by Al-Ihsan Academy, Schools and Libraries Universal Service Support Mechanism*, File No. SLD-196013, *et al.*, CC Docket No. 02-6, Order, DA 12-241 (Wireline Comp. Bur. 2012) (“Order”).

I. BACKGROUND

St. Joseph is the only Catholic high school on St. Croix, an island with less than 55,000 residents. St. Joseph is located in the Catholic Diocese of St. Thomas in the Virgin Islands (the “Diocese”), which is the most impoverished Catholic Diocese in the entire United States. Due to depressed economic conditions in the area, St. Joseph’s students come from poverty-stricken families. Indeed, the school qualifies for the maximum E-rate discount level of 90%. Yet, despite its small size and financial difficulties, St. Joseph is committed to providing its students with a comprehensive education within the Catholic faith. Such commitment includes ensuring its students have access to the critical technological resources that are available to students and educators in more affluent areas throughout the United States.

Given its financial constraints, St. Joseph applied for assistance from the E-rate program in Funding Year 2000 to fund Internet access and internal connections for its classrooms. The school filed the requisite forms with USAC. The school conducted an open and fair competitive bidding process as required by the Commission’s rules. The school selected three vendors in accordance with those rules, and the services were installed.

Many years later, on August 12, 2006, USAC issued St. Joseph a Notification of Commitment Adjustment Letter seeking recovery of all funds paid for Funding Year 2000 as follows: (1) Funding Request Number (“FRN”) 365324 in the amount of \$38,386.01, paid to Dell Marketing LP, (2) FRN 365480 in the amount of \$12,937.50, paid to Virgin Islands Telephone Corporation and (3) FRN 365368 in the amount of \$85,525.11, paid to Lindsey Electronics, Inc. In total, USAC is demanding St. Joseph pay \$136,848.62, which far exceeds St.

Joseph's current resources.² USAC stated, "During the course of an audit it was determined that the applicant did not pay any of the non-discounted portion. FCC rules require applicants to pay the non-discount portion of the products or services purchased with universal service discounts. Applicants that do not pay the non-discount portion more than 90 days after completion of services have violated this rule."³

On October 20, 2006, St. Joseph filed a request for review of USAC's decision with the Commission.⁴ On February 22, 2012, the Commission released the Order denying the request.

II. THE COMMISSION SHOULD REVERSE USAC'S DECISION

The Commission should reverse USAC's decision to recover the funds for the following three reasons.

First, USAC's assertion that St. Joseph did not pay any of the non-discount portion is incorrect. St. Joseph submitted documentation in the Request for Review with respect to Dell Marketing LP. Further, Dell itself filed an appeal with the Commission on September 18, 2006, in which Dell stated, "Dell has searched their records and was able to find where the school had paid the non-discounted portion."⁵ St. Joseph also submitted documentation with the Request for Review to demonstrate that its account with Virgin Islands Telephone Corporation was paid in full. The Order made no mention of, nor did it analyze, St. Joseph's arguments or documentation

² Two other schools in the Diocese, St. Mary's Catholic School and St. Patrick Elementary School, are concurrently filing similar Petitions for Reconsideration. The total recovery demanded from these three Diocesan schools is nearly \$400,000.

³ See Exhibit A.

⁴ See *St. Joseph High School*, Request for Review, Appeal & Support Documents, CC Docket No. 02-6 (Oct. 20, 2006) ("*Request for Review*"). The Order lists a filing date of December 21, 2006. The request for review was not timely entered into the Commission's system and St. Joseph resubmitted it (along with evidence of the earlier filing date).

⁵ See *Dell Marketing LP*, Request for Review, CC Docket No. 02-6 (Sept. 18, 2006).

with respect to these two providers. The Commission has granted appeals for other E-rate applicants that stated the non-discount portion was paid, even after USAC initiated recovery of funds.⁶ Indeed, in the same Order denying St. Joseph's appeal, the Commission granted an appeal filed by Fairfield County School District which, like St. Joseph, submitted that it had paid the service provider (and that payment was made after USAC sought recovery).⁷ St. Joseph expects to be treated the same as similarly situated applicants and must therefore presume (since the Order does not specify) that the denial of its appeal is based on the FRN associated with Lindsey Electronics. At a minimum, the three FRNs at issue should be treated independently. St. Joseph has demonstrated payment of the non-discount portion for FRNs 365324 and 365480. It should not be required to reimburse funds for those two FRNs because the third provider, Lindsey Electronics, disappeared.

Second, this is not a case where the school did not have sufficient funds or intent to pay the non-discount portion. To the best of St. Joseph's knowledge, Lindsey Electronics never invoiced St. Joseph for the non-discount portion.⁸ However, as soon as St. Joseph became aware that the non-discount portion was outstanding, it made extraordinary efforts to attempt to locate

⁶ See Order at ¶ 1 (granting request for review filed by Fairfield County School District). The Commission has also afforded applicants the opportunity to submit additional documentation showing payment of non-discount portions. See, e.g., Order; *In the Matter of Request for Review of the Decision of the Universal Service Administrator by United Talmudical Academy*, File No. SLD-148011, CC Docket No. 02-6, Order, 23 FCC Rcd. 15466 (Wireline Comp. Bur. 2008).

⁷ See Order at ¶ 1.

⁸ More than a decade has passed since Lindsey Electronics installed the project and all of the relevant St. Joseph employees from that time have changed positions, so St. Joseph is unable to consult the original persons involved in this matter. Even the Commission's five-year documentation-retention requirement has long expired here. See 47 C.F.R. § 54.516.

the owner of Lindsey Electronics in order to pay him. He could not be found.⁹ The Commission has previously recognized that service providers have an obligation to invoice the E-rate applicant for the non-discount portion and to follow up in efforts to collect payment.¹⁰ Here, an entire school may close because a service provider not only did not pursue payment but could not even be found to receive payment. These facts are quite different from the precedent cited in the Order.¹¹ In *IOSCO*, the applicant committed multiple rule violations, including not paying for the non-discount portion *despite* having apparently received invoices from the service provider. IOSCO's consultant was also an employee of the service provider and the entire process was tainted. Most importantly, there was no indication that IOSCO could not locate the provider to pay it, as is the unusual case here.

Third, USAC erred in applying a Commission policy retroactively to St. Joseph. USAC stated that St. Joseph violated the program rules because it did not pay the non-discount portion within ninety days after completion of services. However, this 90-day time period was not adopted by the Commission until 2004 – well after Funding Year 2000 and when services were delivered to St. Joseph.¹² The Commission has repeatedly made clear that new E-rate policies

⁹ The Request for Review outlines these efforts in detail, including efforts by St. Joseph's principal to locate the owner of the company through mail, email, and by personally contacting community members.

¹⁰ See *In the Matter of Request for Review of a Decision of the Universal Service Administrator by Hispanic Information and Telecommunications Network, Inc.*, File No. SLD-194580, CC Docket No. 02-6, Order, 23 FCC Rcd. 15432 (Wireline Comp. Bur. 2008).

¹¹ *Request for Review of the Decision of the Universal Service Administrator by IOSCO Regional Educational Service Agency, Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-108653, et al., CC Docket No. 02-6, Order, 24 FCC Rcd 12735 (Wireline Comp. Bur. 2009) ("*IOSCO*").

¹² *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Rcd 15808, 15816, ¶ 24 (2004) ("*Fifth Report and Order*").

may not be applied to applications initiated prior to the adoption of the policy.¹³ Furthermore, the Commission plainly stated in 2004 that the new 90-day policy would be applied “prospectively.”¹⁴ Prior to 2004, the Commission’s rules contained no specific time frame for determining when an E-rate beneficiary has failed to pay its non-discounted share.¹⁵ The 90-day period, or indeed any specific period, is not applicable to St. Joseph’s Funding Year 2000 application. This fact is critical because St. Joseph stands ready, as it has been from the start, to pay the non-discount portion of \$8552.51 to Lindsey Electronics if it can be found.¹⁶ In the meantime, St. Joseph should not be penalized for the negligence and apparent dissolution of the service provider.¹⁷

III. THE RELIEF REQUESTED IS IN THE PUBLIC INTEREST AND A WAIVER IS JUSTIFIED

The denial of this Petition will have dire consequences to St. Joseph and possibly the Diocese itself. If the Commission deems it necessary to grant the relief requested herein, a

¹³ See, e.g., *Request for Review of the Decision of the Universal Service Administrator by Keyport School District, Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 24 FCC Rcd 12702 (Wireline Comp. Bur. 2009); *Requests for Review of Decisions of the Universal Service Administrator by Colegio Nuestra Senora del Carmen, et al.*, CC Docket No. 02-6, Order, 23 FCC Rcd 15568 (Wireline Comp. Bur. 2008).

¹⁴ *Fifth Report and Order*, 19 FCC Rcd at 15818.

¹⁵ *Id.*

¹⁶ St. Joseph requests that the Commission reverse USAC’s decision to recover the entire application amount, but would have no objection if the Commission imposed a condition that St. Joseph remit the non-discount portion to Lindsey Electronics, if it can be found upon commercially reasonable efforts, or to USAC if it cannot be found within ninety days of the Commission’s grant of this Petition.

¹⁷ As stated above, St. Joseph should, at a minimum, be relieved from recovery for FRNs 365324 and 365480.

waiver of Section 54.523 and such other Commission rules as are necessary is appropriate given the facts of this case and the significant hardship that would otherwise result.¹⁸

The grant of this Petition will further the public interest and will not undermine the policy behind the applicable rules. The Commission adopted the rule that E-rate beneficiaries must contribute at least ten percent of the cost of products and services in order “to encourage them to avoid unnecessary and wasteful expenditures because they will be unlikely to commit their own funds for purchases that they cannot use effectively. A percentage discount also encourages schools and libraries to seek the best pre-discount price and to make informed, knowledgeable choices among their options.”¹⁹

St. Joseph did not engage in wasteful or unnecessary expenditures or operate under the belief that it would not have to share in the cost of the products and services. St. Joseph expected to pay the non-discount portion and did pay two of the service providers. The fact that Lindsey Electronics could not be found for receipt of payment surprised St. Joseph, and did not in any way influence St. Joseph’s competitive bidding process. There was no fraud, waste or abuse by St. Joseph. Rather, St. Joseph appears to be stuck between the proverbial rock and a

¹⁸ The Commission’s authority to grant waivers to further the public interest is well established. *See, e.g.*, 47 C.F.R. § 1.3; *Wait Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *affirmed by WAIT Radio v. FCC*, 459 F.2d 1203 (D.C. Cir. 1972) (“*Wait Radio*”). A rule may be waived where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“*Northeast Cellular*”). The Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio*, 418 F.2d at 1157. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule. *Northeast Cellular*, 897 F.2d at 1166; *accord NetworkIP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008).

¹⁹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9036 (1997) (subsequent history omitted).

hard place. USAC seeks recovery of nearly \$140,000 even though St. Joseph did pay two service providers and it wants to but cannot pay the third provider *through no fault of its own*.

The consequences of USAC's recovery demand cannot be underestimated. The amount sought by USAC well exceeds St. Joseph's current cash position, which is already operating at a significant deficit. According to the attached Affidavit by Jerry Esterson, the Director of Finance for the Diocese, St. Joseph is in severe financial straits and may be forced to close if required to pay these funds.²⁰ St. Joseph is, in short, stunned that it might be required to pay nearly \$140,000 of funds that were paid to third parties over *eleven years ago* because one service provider disappeared (and that provider apparently had no interest at the time in obtaining the payment). Surely, St. Joseph is entitled to some certainty and would not be expected to budget to make such payments eleven years later.²¹

The public interest is far better served by a waiver in the instant case, than strict application of a rule.²² St. Joseph is the only Catholic high school on St. Croix. There is simply no other location on the island where families can send their high school-aged children for an education grounded in Catholic teachings. The loss of this school, or a financial burden that might compromise its educational programs, will significantly impact this small community. And if the Diocese attempted to pay the recovery on St. Joseph's behalf, the amount due would severely undermine the Diocese's financial position, possibly forcing it to declare bankruptcy.

²⁰ See Exhibit B.

²¹ The Commission recognized the inherent fairness in providing E-rate beneficiaries certainty and closure in E-rate applications and funding processes. *Fifth Report and Order*, 9 FCC Rcd 15808.

²² See *Northeast Cellular*, 897 F.2d at 1166.

The Commission has granted other E-rate applicants waivers based, in part, on the undue hardship that would follow if the waivers are not granted.²³ As the Commission has observed in other cases, the relief requested for Funding Year 2000 will have minimal effect on the overall Universal Service Fund because the monies in question were not only already collected, but actually disbursed by USAC with no intention, at the time of such disbursement, of recovering such funds.²⁴

IV. CONCLUSION

St. Joseph respectfully requests that the Commission reverse USAC's commitment adjustments for Funding Year 2000 and direct USAC to discontinue recovery actions against St. Joseph.

Respectfully submitted,

ST. JOSEPH HIGH SCHOOL

By: /s/ Donna A. Balaguer
Donna A. Balaguer
Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005
(202) 783-5070

Counsel to the Catholic Diocese of
St. Thomas in the Virgin Islands

March 23, 2012

²³ See, e.g., *Application for Review of the Decision of the Universal Service Administrator by Aberdeen School District et al., Schools and Libraries Universal Service Support Mechanism*, File No. SLD-297249, *et al.*, CC Docket No. 02-6, Order, 22 FCC Rcd 8757 (Wireline Comp. Bur. 2007); *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School et al., Schools and Libraries Universal Service Support Mechanism*, File No. SLD-487170, CC Docket No. 02-6, Order, 21 FCC Rcd 5316, 5326 (Wireline Comp. Bur. 2006) ("*Bishop Perry*").

²⁴ See, e.g., *Bishop Perry*, 21 FCC Rcd at 5317, ¶ 2.

EXHIBIT A



**Universal Service Administrative Company
Schools & Libraries Division**

Notification of Commitment Adjustment Letter

Funding Year 2000: 7/01/2000 - 6/30/2001

May 12, 2006

**Danielle Swanston
ST JOSEPH HIGH SCHOOL
PLOT # 3 MOUNT PLEASANT RT 2 FREDERIKSTED
ST CROIX, VI 00840**

**Re: Form 471 Application Number: 170343
Funding Year: 2000
Applicant's Form Identifier: Internet
Billed Entity Number: 209820
FCC Registration Number: 13366281
SPIN Name: Dell Marketing LP
Service Provider Contact Person: Craig Jackson**

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, the Schools Libraries Division (SLD) of the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the adjustments to your funding commitment required by program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for SLD to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of the Demand Payment Letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at <http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104> for more information regarding the consequences of not paying the debt in a timely manner.

TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Numbers you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, Billed Entity Number, and FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter specific and brief, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal electronically, please send your appeal to appeals@sl.universalservice.org using your organization's e-mail. If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Dept. 125 - Correspondence Unit, 100 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Appeals Area of the SLD section of the USAC web site or by contacting the Client Service Bureau at 1-888-203-8100. We strongly recommend that you use the electronic appeals options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC web site, or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The SLD is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on these Funding Request Numbers, a separate letter will be sent to the service provider detailing the necessary service provider action.

Please note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Please note the Funding Commitment Adjustment Explanation in the attached Report. It explains why the funding commitment is being reduced. Please ensure that any invoices that you or your service provider submit to USAC are consistent with program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: Craig Jackson
Dell Marketing LP

A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

A report for each E-rate funding request from your application for which a commitment adjustment is required is attached to this letter. We are providing the following definitions for the items in that report.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on your Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a. This number will only be present for "site specific" FRNs.

ORIGINAL FUNDING COMMITMENT: This represents the original amount of funding that SLD had reserved to reimburse you for the approved discounts for this service for this funding year.

COMMITMENT ADJUSTMENT AMOUNT: This represents the amount of funding that SLD has rescinded because of program rule violations.

ADJUSTED FUNDING COMMITMENT: This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

FUNDS DISBURSED TO DATE: This represents the total funds that have been paid to the identified service provider for this FRN as of the date of this letter.

FUNDS TO BE RECOVERED FROM APPLICANT: This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

FUNDING COMMITMENT ADJUSTMENT EXPLANATION: This entry provides an explanation of the reason the adjustment was made.

p. 11

**Funding Commitment Adjustment Report for
Form 471 Application Number: 170343**

Funding Request Number:	365324
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143004340
Service Provider Name:	Dell Marketing LP
Contract Number:	471-209820
Billing Account Number:	692-2455
Site Identifier:	209820
Original Funding Commitment:	\$38,387.79
Commitment Adjustment Amount:	\$38,387.79
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$38,386.01
Funds to be Recovered from Applicant:	\$38,386.01

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that funds were improperly disbursed on this funding request. During the course of an audit it was determined that the applicant did not pay any of the non-discounted portion. FCC rules require applicants to pay the non-discount portion of the products or services purchased with universal service discounts. Applicants that do not pay the non-discount portion more than 90 days after completion of services have violated this rule. Consequently, the program rules have been violated. Accordingly, the SLD is seeking recovery of any disbursed funds.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING**

Danielle Swanston
ST JOSEPH HIGH SCHOOL
PLOT # 3 MOUNT PLEASANT RT 2 FREDERIKSTED
ST CROIX, VI 00840



**Universal Service Administrative Company
Schools & Libraries Division**

Notification of Commitment Adjustment Letter

Funding Year 2000: 7/01/2000 - 6/30/2001

May 12, 2006

**Danielle Swanston
ST JOSEPH HIGH SCHOOL
PLOT # 3 MOUNT PLEASANT RT 2 FREDERIKSTED
ST CROIX, VI 00840**

**Re: Form 471 Application Number: 170343
Funding Year: 2000
Applicant's Form Identifier: Internet
Billed Entity Number: 209820
FCC Registration Number: 13366281
SPIN Name: Virgin Islands Telephone Corporation
Service Provider Contact Person: Tisha Lake**

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, the Schools Libraries Division (SLD) of the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the adjustments to your funding commitment required by program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for SLD to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of the Demand Payment Letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at <http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104> for more information regarding the consequences of not paying the debt in a timely manner.

TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Numbers you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, Billed Entity Number, and FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter specific and brief, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal electronically, please send your appeal to appeals@sl.universalservice.org using your organization's e-mail. If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Dept. 125 - Correspondence Unit, 100 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Appeals Area of the SLD section of the USAC web site or by contacting the Client Service Bureau at 1-888-203-8100. We strongly recommend that you use the electronic appeals options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC web site, or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The SLD is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on these Funding Request Numbers, a separate letter will be sent to the service provider detailing the necessary service provider action.

Please note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Please note the Funding Commitment Adjustment Explanation in the attached Report. It explains why the funding commitment is being reduced. Please ensure that any invoices that you or your service provider submit to USAC are consistent with program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: Tisha Lake
Virgin Islands Telephone Corporation

A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

A report for each E-rate funding request from your application for which a commitment adjustment is required is attached to this letter. We are providing the following definitions for the items in that report.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on your Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a. This number will only be present for "site specific" FRNs.

ORIGINAL FUNDING COMMITMENT: This represents the original amount of funding that SLD had reserved to reimburse you for the approved discounts for this service for this funding year.

COMMITMENT ADJUSTMENT AMOUNT: This represents the amount of funding that SLD has rescinded because of program rule violations.

ADJUSTED FUNDING COMMITMENT: This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

FUNDS DISBURSED TO DATE: This represents the total funds that have been paid to the identified service provider for this FRN as of the date of this letter.

FUNDS TO BE RECOVERED FROM APPLICANT: This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

FUNDING COMMITMENT ADJUSTMENT EXPLANATION: This entry provides an explanation of the reason the adjustment was made.

**Funding Commitment Adjustment Report for
Form 471 Application Number: 170343**

Funding Request Number:	365480
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143002713
Service Provider Name:	Virgin Islands Telephone Corporation
Contract Number:	MTM
Billing Account Number:	692-2455
Site Identifier:	209820
Original Funding Commitment:	\$14,375.01
Commitment Adjustment Amount:	\$14,375.01
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$12,937.50
Funds to be Recovered from Applicant:	\$12,937.50

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that funds were improperly disbursed on this funding request. During the course of an audit it was determined that the applicant did not pay any of the non-discounted portion. FCC rules require applicants to pay the non-discount portion of the products or services purchased with universal service discounts. Applicants that do not pay the non-discount portion more than 90 days after completion of services have violated this rule. Consequently, the program rules have been violated. Accordingly, the SLD is seeking recovery of any disbursed funds.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING**

**Danielle Swanston
ST JOSEPH HIGH SCHOOL
PLOT # 3 MOUNT PLEASANT RT 2 FREDERIKSTED
ST CROIX, VI 00840**



**Universal Service Administrative Company
Schools & Libraries Division**

Notification of Commitment Adjustment Letter

Funding Year 2000: 7/01/2000 - 6/30/2001

May 12, 2006

**Danielle Swanston
ST JOSEPH HIGH SCHOOL
PLOT # 3 MOUNT PLEASANT RT 2 FREDERIKSTED
ST CROIX, VI 00840**

**Re: Form 471 Application Number: 170343
Funding Year: 2000
Applicant's Form Identifier: Internet
Billed Entity Number: 209820
FCC Registration Number: 13366281
SPIN Name: Lindsey Electronics, Inc
Service Provider Contact Person: Ronald Lindsey**

Our routine review of Schools and Libraries Program funding commitments has revealed certain applications where funds were committed in violation of program rules.

In order to be sure that no funds are used in violation of program rules, the Schools Libraries Division (SLD) of the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the adjustments to your funding commitment required by program rules, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the program rule violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for SLD to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of the Demand Payment Letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at <http://www.universalservice.org/fund-administration/tools/latest-news.aspx#083104> for more information regarding the consequences of not paying the debt in a timely manner.

TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Numbers you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, Billed Entity Number, and FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter specific and brief, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal electronically, please send your appeal to appeals@sl.universalservice.org using your organization's e-mail. If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Dept. 125 - Correspondence Unit, 100 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Appeals Area of the SLD section of the USAC web site or by contacting the Client Service Bureau at 1-888-203-8100. We strongly recommend that you use the electronic appeals options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC web site, or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. Immediately preceding the Report, you will find a guide that defines each line of the Report.

The SLD is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on these Funding Request Numbers, a separate letter will be sent to the service provider detailing the necessary service provider action.

Please note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Please note the Funding Commitment Adjustment Explanation in the attached Report. It explains why the funding commitment is being reduced. Please ensure that any invoices that you or your service provider submit to USAC are consistent with program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division
Universal Services Administrative Company

cc: Ronald Lindsey
Lindsey Electronics, Inc

A GUIDE TO THE FUNDING COMMITMENT ADJUSTMENT REPORT

A report for each E-rate funding request from your application for which a commitment adjustment is required is attached to this letter. We are providing the following definitions for the items in that report.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each individual request in your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on your Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on your Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a. This number will only be present for "site specific" FRNs.

ORIGINAL FUNDING COMMITMENT: This represents the original amount of funding that SLD had reserved to reimburse you for the approved discounts for this service for this funding year.

COMMITMENT ADJUSTMENT AMOUNT: This represents the amount of funding that SLD has rescinded because of program rule violations.

ADJUSTED FUNDING COMMITMENT: This represents the adjusted total amount of funding that SLD has reserved to reimburse for the approved discounts for this service for this funding year. If this amount exceeds the Funds Disbursed to Date, the SLD will continue to process properly filed invoices up to the new commitment amount.

FUNDS DISBURSED TO DATE: This represents the total funds that have been paid to the identified service provider for this FRN as of the date of this letter.

FUNDS TO BE RECOVERED FROM APPLICANT: This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

FUNDING COMMITMENT ADJUSTMENT EXPLANATION: This entry provides an explanation of the reason the adjustment was made.

**Funding Commitment Adjustment Report for
Form 471 Application Number: 170343**

Funding Request Number:	365368
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143012478
Service Provider Name:	Lindsey Electronics, Inc
Contract Number:	9820
Billing Account Number:	692-2455
Site Identifier:	209820
Original Funding Commitment:	\$85,525.11
Commitment Adjustment Amount:	\$85,525.11
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$85,525.11
Funds to be Recovered from Applicant:	\$85,525.11

Funding Commitment Adjustment Explanation:

After a thorough investigation, it has been determined that funds were improperly disbursed on this funding request. During the course of an audit it was determined that the applicant did not pay any of the non-discounted portion. FCC rules require applicants to pay the non-discount portion of the products or services purchased with universal service discounts. Applicants that do not pay the non-discount portion more than 90 days after completion of services have violated this rule. Consequently, the program rules have been violated. Accordingly, the SLD is seeking recovery of any disbursed funds.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING**

EXHIBIT B

AFFIDAVIT OF JEROME ESTERSON

I, Jerome Esterson, hereby declare and affirm that the following statements are true and correct.

1. I am over 18 years of age and competent to attest to the matters described herein. I have personal knowledge of the facts set forth herein.
2. I am the Director of Finance for the Catholic Diocese of St. Thomas in the Virgin Islands ("Diocese"). I am responsible for and familiar with the financial budgets and forecasts of the Diocese and its constituent institutions.
3. I have reviewed the financial status of three Catholic schools within the Diocese: St. Joseph High School, St. Mary's Catholic School and St. Patrick Elementary School (the "Schools"). I have reviewed the requests issued by the Universal Service Administrative Company ("USAC") to the Schools demanding repayment of E-rate funds issued to service providers for Funding Year 2000. The total demand for all three schools is nearly \$395,000. Neither the Schools, respectively, nor the Diocese has surplus funds within their budgets to pay this expense.
4. If the Schools are required to comply with USAC's recovery demands, it will have a devastating financial impact on these institutions and the Diocese's ability to support and provide Catholic education to students. This impact is likely to include shutting down schools, eliminating educational programs and laying off faculty and administration.
5. St. Joseph High School is the only Catholic high school on St. Croix. St. Joseph is currently operating under a financial deficit. As of March 20, 2012, St. Joseph is operating at a loss of over \$60,000. Student enrollment declined from last year by fifteen percent. Bishop Herbert A. Bevard and Father E. Patrick Lynch, the Superintendent of Schools, are attempting to keep the school open by the hiring of a new principal and encouraging enrollment. The unexpected USAC demand for payment may destroy these plans. If St. Joseph is required to pay all of the funds demanded, the Diocese must consider shutting the school down.
6. St. Mary's Catholic School is currently operating under a financial deficit. As of March 20, 2012, St. Mary's is operating at a loss of over \$130,000. If St. Mary's is required to pay all of the funds demanded by USAC, the Diocese must consider shutting the school down or implementing other drastic measures, such as laying off faculty and administration or eliminating educational programs.
7. St. Patrick Elementary School is currently operating under a financial deficit. As of March 20, 2012, St. Patrick is operating at a loss of over \$30,000. If St. Patrick is required to pay all of the funds demanded by USAC, the Diocese must consider

shutting the school down or implementing other drastic measures, such as laying off faculty and administration or eliminating educational programs.


SIGNATURE OF JEROME ESTERSON

3-23-12
DATE

WITNESS:

Signature: Valerie Doute

Print Name: VALERIE Doute

Date: March 23, 2012